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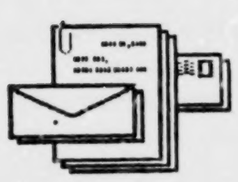
FREEDOM OF INFORMATION ACT (FOIA)



SDIO No. 5400-PH
April 17, 1989

Office of Primary Responsibility
Resource Management

D 1.2:

FREEDOM OF INFORMATION ACT (FOIA)

ENACTED: 1966; Amended in 1974.

PURPOSE: To provide universal right of limited access to Federal information which is data that is recorded (on various kinds of media) for official purposes and created to reflect purpose, decision, or major transactions.

OTHER RELATED ACTS:

- Title 44, U.S.C. 3301, Disposal of Records;
- Title 5, U.S.C. 3301, General Powers Act;
- Title 5, U.S.C. 3100, Record Keeping Responsibility of Agencies; and
- Title 5, U.S.C., Section 552a, The Privacy Act.

DEFINITIONS

FOIA REQUEST: A written request for records, made by a member of the public, that either explicitly or implicity invokes the FOIA, DoD Directive 5400.7, or an agency's supplementing regulations or instructions.

AGENCY RECORD: The products of data compilation, regardless of the physical form or characteristics, made or received by a government agency in connection with the transaction of public business and preserved by a government agency primarily as evidence of the organization and its policies, functions, decisions, or procedures of the agency.

A record must exist and be controlled by the DoD/agency at the time of the request to be considered subject to the DoD Directive or an agency's supplementing directive. There is no obligation to create, compile, or obtain a record to satisfy a FOIA request.

KEY RULES REGRADING FOIA

- Disclosure is the general rule, not the exception;
- All individuals shall have equal rights of access to Federal information;
- The government shall ensure responses denying access to information requested from the public are clear, concise, and justifiable; and
- Individuals improperly denied access to documents have the right to seek relief through the judicial system.

FOIA REQUIREMENTS

- Publication of policies, rules, directives, etc., in the Federal Register;
- Availability of final adjudicatory opinions, administrative staff manuals, and staff instructions that affect a member of the public;
- Maintenance of a current index of decisions adopted;
- Withholding of requested records is limited to nine(9) specific exemptions - permissive, not mandatory; and
- Judicial review by the court to determine if release of the information is required.

FOIA EXEMPTIONS

CLASSIFIED INFORMATION AND DOCUMENTS
Disclosure of such information would jeopardize national security or foreign relations.

INTERNAL RULES AND PRACTICES
Records related solely to internal rules and practices of an agency.

INFORMATION DENIED BY OTHER SPECIFIC WITHHOLDING STATUTES
Withhold information prohibited by another Federal law which leaves no discretion on whether to disclose the information.

TRADE SECRETS AND COMMERCIAL OR FINANCIAL INFORMATION GIVEN IN CONFIDENCE

INTER-AGENCY AND INTRA-AGENCY COMMUNICATIONS
Various forms of communication between or within an agency which would not be available by law to a party other than in litigation with the agency.

PERSONAL INFORMATION
Data contained in files such as medical and personal where disclosure would warrant an invasion of privacy.

INVESTIGATIVE FILES COMPILED FOR LAW ENFORCEMENT

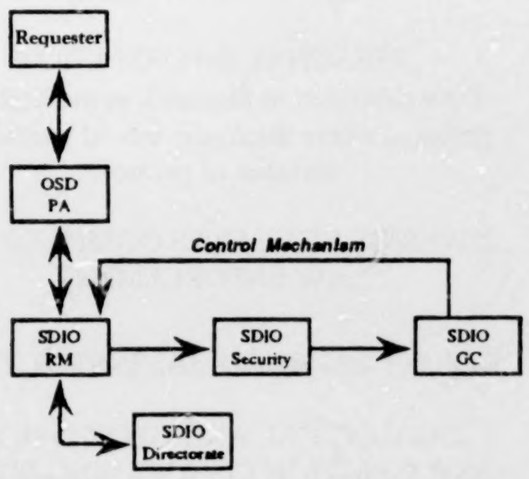
REPORT ON FINANCIAL INSTITUTIONS

GEOLOGICAL AND GEOPHYSICAL INFORMATION CONCERNING WELLS

SDIO FOIA PROCESS

- The Resource Management (RM) Directorate, SDIO receives the initial request from the Office of the Secretary of Defense (OSD), Public Affairs (PA) Office.
- The Management and Oversight Division (MO) of RM enters pertinent information regarding the request into an automated system and assigns responsibility for and forwards the request to the appropriate SDIO directorate.
- The SDIO directorate assigns responsibility for the request, prepares and coordinates the response with the appropriate SDIO directorates, Executing Agencies, and OSD offices, and submits the final response to the RM/MO Division, SDIO, for review and approval of the response.
- The RM/MO Division reviews, coordinates with the Office of Security and General Counsel, SDIO, and forwards the approved response to OSD(PA) for release (or nonrelease) of the information.

FLOWCHART OF FOIA PROCESS



NOTE: If a response is appealed, the same process as described above is followed.

INTERNAL MANAGEMENT CONTROLS (IMCs)

- Automated FOIA Suspense Tracking System.
- Coordination by the Office of Security and General Counsel is required before signature and release of the information to the OSD(PA) by the Initial Denial Authority (IDA), SDIO.

TOOLS TO ENHANCE FOIA COMPLIANCE

- SDIO Directive No. 5400, "SDIO Freedom of Information Program," June 1989 (Draft).
- DoD Directive 5400.7, "DoD Freedom of Information Act Program," May 13, 1988.
- FOIA Annual Training Course.
- FOIA Status Report which provides a mechanism for monitoring and controlling pending FOIA requests.

SDIO FOIA MANAGEMENT STAFF

Ms. Deborah Vinson, Initial Denial Authority
Ms. Connie Teat, FOIA Coordinator
(202/693-1500)
Mr. Ted Tate, GC Representative
(202/693-1784)

For further information concerning FOIA and SDIO's implementation of the Act, please refer to SDIO Directive No. 5400, "SDIO Freedom of Information Program," June 1989 (Draft).